

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

EDDIE AHMAD HAYES, #233519,)	
)	
Plaintiff,)	
v.)	CASE NO. 2:08-cv-416-MEF
)	
WARDEN GILES, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

1. The plaintiff's objection (Doc. #47) to the Recommendation of the Magistrate Judge filed on December 3, 2010 is overruled;
2. The Recommendation of the Magistrate Judge (Doc. #42) filed on October 28, 2010 is adopted;
3. Defendants Giles and Jenkins' motion for summary judgment on plaintiff's Eighth Amendment claim (Doc. #22) is GRANTED.
4. Defendants' motions for summary judgment on plaintiff's ADA claim (Doc. #13, #14, #22, #32) are GRANTED.
5. Plaintiff's claims against defendants Giles and Jenkins are DISMISSED without prejudice.
6. Defendants Ferrell and James' motions for summary judgment on plaintiff's Eighth

Amendment claim (Doc. #13, #14, #32) are GRANTED to the extent these defendants seek dismissal of this claim due to plaintiff's failure to properly exhaust an administrative remedy previously available to him at the Ventress Correctional Facility.

7. Plaintiff's Eighth Amendment claim against defendants Ferrell and James is DISMISSED with prejudice in accordance with the provisions of 42 U.S.C. § 1997e(a) for plaintiff's failure to exhaust an administrative remedy available to him during his confinement at the Ventress Correctional Facility.

8. Costs of this action are taxed against plaintiff for which execution may issue.

DONE this the 4th day of January, 2011.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE